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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

EDWARD AND ANDREA  
TARRANT,

Plaintiff,

v.

J.A. CAMBECE LAW OFFICE, P.C.,

Defendant.

) **Case No.:**

) **COMPLAINT AND DEMAND FOR**  
) **JURY TRIAL**

) **(Unlawful Debt Collection Practices)**

**COMPLAINT**

EDWARD AND ANDREA TARRANT ("Plaintiff"), by their attorneys,  
KIMMEL & SILVERMAN, P.C., alleges the following against J.A. CAMBECE  
LAW OFFICE, P.C., ("Defendant"):

**INTRODUCTION**

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices  
Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA").

**JURISDICTION AND VENUE**

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d),  
which states that such actions may be brought and heard before "any appropriate  
United States district court without regard to the amount in controversy," and 28

1 U.S.C. § 1367 grants this court supplemental jurisdiction over the state claims  
2 contained therein.

3  
4 3. Defendant conducts business in the state of Massachusetts and  
5 therefore, personal jurisdiction is established.

6 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(1).

7  
8 5. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and  
9 2202.

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11 **PARTIES**

12 6. Plaintiffs are natural persons residing in Onsett, Massachusetts.

13 7. Plaintiffs are both a “consumer” as that term is defined by 15 U.S.C.  
14 § 1692a(3).

15  
16 8. Defendant is a debt collector doing business without a license as  
17 required by Massachusetts law, having its principal place of business at 8 Bourbon  
18 Street, Peabody, Massachusetts, 01960.

19  
20 9. Defendant is a debt collector as that term is defined by 15 U.S.C. §  
21 1692a(6), and sought to collect a consumer debt from Plaintiffs.

22 10. Defendant acted through its agents, employees, officers, members,  
23 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,  
24 representatives, and insurers.  
25

## PRELIMINARY STATEMENT

11. The Fair Debt Collection Practices Act ("FDCPA") is a comprehensive statute that prohibits a catalog of activities in connection with the collection of debts by third parties. See 15 U.S.C. § 1692 *et seq.* The FDCPA imposes civil liability on any person or entity that violates its provisions, and establishes general standards of debt collector conduct, defines abuse, and provides for specific consumer rights. 15 U.S.C. § 1692k. The operative provisions of the FDCPA declare certain rights to be provided to or claimed by debtors, forbid deceitful and misleading practices, prohibit harassing and abusive tactics, and proscribe unfair or unconscionable conduct, both generally and in a specific list of disapproved practices.

12. In particular, the FDCPA broadly enumerates several practices considered contrary to its stated purpose, and forbids debt collectors from taking such action. The substantive heart of the FDCPA lies in three broad prohibitions. First, a “debt collector may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.” 15 U.S.C. § 1692d. Second, a “debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt.” 15 U.S.C. § 1692e. And third, a “debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt.” 15 U.S.C. §

1 1692f. The FDCPA is designed to protect consumers from unscrupulous  
2 collectors, whether or not there exists a valid debt, broadly prohibits unfair or  
3 unconscionable collection methods, conduct which harasses, oppresses or abuses  
4 any debtor, and any false, deceptive or misleading statements in connection with  
5 the collection of a debt.  
6

7 13. In enacting the FDCPA, the United States Congress found that  
8 “[t]here is abundant evidence of the use of abusive, deceptive, and unfair debt  
9 collection practices by many debt collectors,” which “contribute to the number of  
10 personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of  
11 individual privacy.” 15 U.S.C. § 1692a. Congress additionally found existing  
12 laws and procedures for redressing debt collection injuries to be inadequate to  
13 protect consumers. 15 U.S.C. § 1692b.  
14

15 14. Congress enacted the FDCPA to regulate the collection of consumer  
16 debts by debt collectors. The express purposes of the FDCPA are to “eliminate  
17 abusive debt collection practices by debt collectors, to insure that debt collectors  
18 who refrain from using abusive debt collection practices are not competitively  
19 disadvantaged, and to promote consistent State action to protect consumers against  
20 debt collection abuses.” 15 U.S.C. § 1692e.  
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**FACTUAL ALLEGATIONS**

15. At all pertinent times hereto, Defendant was allegedly hired to collect a debt relating to a credit card.

16. The alleged debt at issue arose out of transactions that were primarily for personal, family or household, purposes.

17. On February 5, 2010 a complaint was served on Plaintiff Edward Tarrant at his parent's address.

18. The Complaint sought damages in the amount of \$2,414.42, which included amounts which were not expressly authorized by agreement or law. See Exhibit "A".

19. Prior to February 5, 2010 Plaintiffs received no written correspondence and/or telephone calls from Defendant.

20. Plaintiff Andrea Tarrant immediately contacted Defendant to find out more information about the alleged debt.

21. Plaintiff Andrea Tarrant was advised by Defendant's representative that if they made payments the lawsuit filed against Plaintiff Edward Tarrant would not proceed forward.

22. Plaintiff Andrea Tarrant advised Defendant that her husband lost his job, her pay was cut and that her ex-husband cut off child support and therefore they could afford to pay the alleged debt at this time.

1       23. Defendant's representative advised Plaintiff that they had researched  
2 the finances of Plaintiff Edward Tarrant's mother and believed she was in a  
3 position to pay the debt.  
4

5       24. According to Defendant Plaintiff Edward Tarrant's mother was a co-  
6 signor of the debt.  
7

8       25. Plaintiff Andrea Tarrant advised Defendant's representative that her  
9 mother-in-law was also recently unemployed and could not pay for the debt, and  
10 further that she was not responsible for this alleged debt.  
11

12       26. Believing that there was no alternative, Plaintiff indicated her husband  
13 could pay \$200 per month, but Defendant refused this amount indicating its client  
14 would only accept full payment.  
15

16       27. Defendant's representative also indicated that failure to pay would  
17 result in a lien being put on Plaintiff, Edward Tarrant's mother's home.  
18

19       28. Later that same day Plaintiff Andrea Tarrant, who does not owe any  
20 alleged debt, received multiple telephone calls to her place of employment.  
21

22       29. One voice message she received from Defendant's representative  
23 "Addie Florio" indicated that "[her] husband was talking crazy" and requested a  
24 call back to discuss the matter.  
25

1       29. Defendant contacted Plaintiffs several more times that day and in one  
2 discussion threatened to contact Edward's mother regarding this matter, despite  
3 Plaintiffs requested that Defendant not contact Edward's mother.  
4

5       30. Following these repeated telephone calls on February 5, 2010,  
6 Defendant failed to send any written correspondence to Plaintiff Edward Tarrant  
7 within five days as required under the FDCPA.  
8

### 9                                   **CONSTRUCTION OF APPLICABLE LAW**

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11       31. The FDCPA is a strict liability statute. Taylor v. Perrin, Landry,  
12 deLaunay & Durand, 103 F.3d 1232 (5th Cir. 1997). "Because the Act imposes  
13 strict liability, a consumer need not show intentional conduct by the debt collector  
14 to be entitled to damages." Russell v. Equifax A.R.S., 74 F. 3d 30 (2d Cir. 1996);  
15 see also Gearing v. Check Brokerage Corp., 233 F.3d 469 (7th Cir. 2000) (holding  
16 unintentional misrepresentation of debt collector's legal status violated FDCPA);  
17 Clomon v. Jackson, 988 F. 2d 1314 (2d Cir. 1993).  
18

19       32. The FDCPA is a remedial statute, and therefore must be construed  
20 liberally in favor of the debtor. Sprinkle v. SB&C Ltd., 472 F. Supp. 2d 1235  
21 (W.D. Wash. 2006). The remedial nature of the FDCPA requires that courts  
22 interpret it liberally. Clark v. Capital Credit & Collection Services, Inc., 460 F. 3d  
23 1162 (9th Cir. 2006). "Because the FDCPA, like the Truth in Lending Act (TILA)  
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1 15 U.S.C §1601 *et seq.*, is a remedial statute, it should be construed liberally in  
2 favor of the consumer.” Johnson v. Riddle, 305 F. 3d 1107 (10th Cir. 2002).

3  
4 33. The FDCPA is to be interpreted in accordance with the “least  
5 sophisticated” consumer standard. See Jeter v. Credit Bureau, Inc., 760 F.2d 1168  
6 (11th Cir. 1985); Graziano v. Harrison, 950 F. 2d 107 (3<sup>rd</sup> Cir. 1991); Swanson v.  
7 Southern Oregon Credit Service, Inc., 869 F.2d 1222 (9th Cir. 1988). The FDCPA  
8 was not “made for the protection of experts, but for the public - that vast multitude  
9 which includes the ignorant, the unthinking, and the credulous, and the fact that a  
10 false statement may be obviously false to those who are trained and experienced  
11 does not change its character, nor take away its power to deceive others less  
12 experienced.” Id. The least sophisticated consumer standard serves a dual  
13 purpose in that it ensures protection of all consumers, even naive and trusting,  
14 against deceptive collection practices, and protects collectors against liability for  
15 bizarre or idiosyncratic interpretations of collection notices. Clomon, 988 F. 2d at  
16 1318.

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21 **COUNT I**  
22 **DEFENDANT VIOLATED THE FAIR DEBT**  
23 **COLLECTION PRACTICES ACT**

24 34. In its actions to collect a disputed debt, Defendant violated the  
25 FDCPA in one or more of the following ways:

- i. Communicating with Plaintiff at a place known to be inconvenient, specifically at Plaintiff Andrea Tarrant's place of employment in violation of 15 U.S.C. §1692c(a)(3).
- ii. Communicating with third parties regarding information that went beyond acquisition of location information in violation of 15 U.S.C. §1692b and repeated communications with third persons in violation of §1692b(3).
- iii. Engaging in conduct the natural consequence of which was to harass, oppress, or abuse Plaintiff with the collection of a debt, specifically repeatedly contacting Plaintiff Andrea Tarrant at her place of employment, in violation of 15 U.S.C. § 1692d.
- iv. Using false, deceptive or misleading representation or means in connection with the collection of any debt in violation of 15 U.S.C. §1692e.
- v. Misrepresenting that failure to pay would result in the seizure of property in violation of 15 U.S.C. § 1692e(4).
- vi. Using unfair or unconscionable means to collect or attempt to collect any debt, in violation of 15 U.S.C. § 1692f.

- vii. Attempting to collect additional amounts not expressly authorized in agreement or by law in violation of 15 U.S.C. § 1692f(1).
- viii. Failing to, within five days after initial communication with Plaintiff in connection with the collection of a debt, to provide Plaintiff with written notice containing the amount of the debt, the name of the creditor to who the debt is owed, and advising her rights to dispute the debt, request validation of the debt, and the name and address of the original creditor, in violation of 15 U.S.C. § 1692g.
- ix. By acting in an otherwise deceptive, unfair and unconscionable manner and failing to comply with the FDCPA.

WHEREFORE, Plaintiffs, EDWARD AND ANDREA TARRANT, respectfully prays for a judgment as follows:

- a. All actual compensatory damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
- b. Statutory damages of \$1,000.00 for each violation of the FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);

- 1 c. All reasonable attorneys' fees, witness fees, court costs and  
2 other litigation costs incurred by Plaintiff pursuant to 15 U.S.C.  
3 § 1693k(a)(3); and  
4  
5 d. Any other relief deemed appropriate by this Honorable Court.  
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7 **DEMAND FOR JURY TRIAL**

8 PLEASE TAKE NOTICE that Plaintiff, EDWARD AND ANDREA  
9 TARRANT, demands a jury trial in this case.  
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14 RESPECTFULLY SUBMITTED,  
15 DATED: April 2, 2010 KIMMEL & SILVERMAN, P.C..  
16

17 By: /s/ Craig Thor Kimmel  
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